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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/978,579	10/18/2001	Yoshitaka Takeuchi	35.C15884	5217

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30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

EXAMINER

WHIPKEY, JASON T

ART UNIT	PAPER NUMBER
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2612

DATE MAILED: 10/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/978,579

Applicant(s)

TAKEUCHI, YOSHITAKA

Examiner

Jason T. Whipkey

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7 is/are allowed.
- 6) ☒ Claim(s) 1,2,4 and 5 is/are rejected.
- 7) ☒ Claim(s) 3 and 6 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/20/02
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because it begins with the text, "An object is to provide". Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over McGarvey (U.S. Patent Application Publication No. 2002/0130959) in view of Nakamura (U.S. Patent No. 5,092,331).

Regarding **claim 1**, McGarvey discloses:

An image pickup apparatus comprising: a memory (70 in Figure 2) for storing as white data (a white card used as a white reference; see paragraphs 24 and 25) first image data (a "resulting white balance" calculated¹; see paragraph 25, line 8) obtained from an image pickup element (image sensor 16 in Figure 1); and a

Art Unit: 2612

control unit (memory card interface 31) for converting second image data (i.e., a traditional image of a subject) from the image pickup element into a file (see paragraph 21, lines 11-13).

McGarvey is silent with regard to storing the first image data in the image data file.

Nakamura discloses an image capturing device that stores white balance data calculated at the beginning of image capture by white balancing circuit 202 in a file 120 (see Figure 19) with image data (see column 14, lines 9-11). As stated in column 14, lines 17-22, an advantage to storing white reference data in a file with actual image data is that “various enhancing processes” may be performed at the time of reproduction. For this reason, it would have been obvious at the time of invention to have McGarvey’s apparatus store white reference data in a file with image data.

It is inherent that the first and second image data are not stored in the same location in the resulting image data file, as this is physically impossible.

Regarding **claim 2**, McGarvey discloses:

said memory stores a plurality of first image data as white balance data
(McGarvey teaches that multiple white balance settings may be stored simultaneously; see paragraph 24).

Regarding **claim 5**, McGarvey discloses:

the first image data is image data of a central portion of an image picked up by the image pickup element (McGarvey teaches that a white card or other object is

¹In claim 4, for example, Applicant uses the term “image data” to denote a calculation resulting from raw image data. The examiner will use the term likewise.

Art Unit: 2612

positioned in the center of the image for white balancing [see paragraph 17] and that the white balance setting is determined based on that card [see paragraph 23]).

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over McGarvey in view of Nakamura and further in view of Lin (U.S. Patent No. 6,642,962).

Claim 4 may be treated like claim 1. However, McGarvey is silent with regard to using an average value of each color component as white data.

Lin discloses a processor for a digital camera, as shown in Figure 3. The processor calculates averages for each color in a frame for use in white balancing (column 13, lines 12-15). An advantage to using an average of each color in a frame is that anomalous colors and subjects are prevented from disrupting the overall white balance. For this reason, it would have been obvious at the time of invention to have McGarvey's camera calculate an average of each color in a frame for use in white balancing.

Allowable Subject Matter

5. Claims 3 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claim 3, no prior art could be located that teaches or fairly suggests an image pickup apparatus that captures and stores first image data as white data, captures second image

Art Unit: 2612

data and stores it in a file with the first image data, and determines what in the second image data should be displayed on a display in order to adjust the white balance of the first image data.

Regarding claim 6, no prior art could be located that teaches or fairly suggests an image pickup apparatus that captures and stores first image data as white data, captures second image data and stores it in a file with the first image data, wherein the white data of the first image data is not a white balance adjustment value for adjusting the second image data.

6. Claim 7 is allowed.

No prior art could be located that teaches or fairly suggests an image pickup apparatus that stores reference data and specific data captured using two different light sources, wherein a control device reads out an image file containing white balance data and corrects the *white balance data* using the reference data and the specific data.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason T. Whipkey, whose telephone number is (703) 305-1819. The examiner can normally be reached Monday through Friday from 8:30 A.M. to 6:00 P.M. eastern daylight time, alternating Fridays off.

Art Unit: 2612

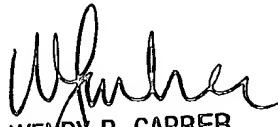
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy R. Garber, can be reached on (703) 305-4929. The fax phone number for the organization where this application is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JTW

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September 30, 2004


WENDY R. GARBER
SUPERVISORY PATENT EXAMINER
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